

UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE United States Patent and Trademark Office Address: COMMISSIONER FOR PATENTS P.O. Box 1450 Alexandria, Virginia 22313-1450 www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/796,485	03/09/2004	Steven M. Stone	040472.267909	2291
826 ALSTON & BII	7590 04/19/2007 RD LLP	EXAMINER		
BANK OF AMI	ERICA PLAZA	RUDY, ANDREW J		
101 SOUTH TRYON STREET, SUITE 4000 CHARLOTTE, NC 28280-4000			ART UNIT	PAPER NUMBER
			3627	
SHORTENED STATUTORY	Y PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE	
31 DAYS		04/19/2007	PAPER	

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

		Application No.	Applicant(s)				
Office Action Summary		10/796,485	STONE ET AL.				
		Examiner	Art Unit				
		Andrew Joseph Rudy	3627				
Period fo	The MAILING DATE of this communication a or Reply	ppears on the cover sheet with	the correspondence address				
WHIC - Exte after - If NC - Failu Any	ORTENED STATUTORY PERIOD FOR REF CHEVER IS LONGER, FROM THE MAILING nsions of time may be available under the provisions of 37 CFR SIX (6) MONTHS from the mailing date of this communication. O period for reply is specified above, the maximum statutory perior tre to reply within the set or extended period for reply will, by stat reply received by the Office later than three months after the ma ed patent term adjustment. See 37 CFR 1.704(b).	DATE OF THIS COMMUNICA 1.136(a). In no event, however, may a reply od will apply and will expire SIX (6) MONTHS tute, cause the application to become ABANI	TION. be timely filed from the mailing date of this communication. DONED (35 U.S.C. § 133).				
Status							
1)⊠	Responsive to communication(s) filed on <u>02</u>	February 2007.					
2a)□	-	nis action is non-final.					
3)□	Since this application is in condition for allowance except for formal matters, prosecution as to the merits is						
·	closed in accordance with the practice under Ex parte Quayle, 1935 C.D. 11, 453 O.G. 213.						
Disposit	ion of Claims						
4)⊠	Claim(s) <u>1-13,66-78 and 131-143</u> is/are pen-	ding in the application.					
	4a) Of the above claim(s) is/are withdrawn from consideration.						
5)	5) Claim(s) is/are allowed.						
6)	6) Claim(s) is/are rejected.						
7)	') Claim(s) is/are objected to.						
8)⊠	8) Claim(s) 1-13,66-78 and 131-143 are subject to restriction and/or election requirement.						
Applicati	on Papers						
9)[The specification is objected to by the Exami	ner.					
10) The drawing(s) filed on is/are: a) accepted or b) objected to by the Examiner.							
	Applicant may not request that any objection to the	ne drawing(s) be held in abeyance.	See 37 CFR 1.85(a).				
	Replacement drawing sheet(s) including the corre	ection is required if the drawing(s) i	is objected to. See 37 CFR 1.121(d).				
11)	The oath or declaration is objected to by the	Examiner. Note the attached O	ffice Action or form PTO-152.				
Priority ι	ınder 35 U.S.C. § 119						
	Acknowledgment is made of a claim for foreig	gn priority under 35 U.S.C. § 11	9(a)-(d) or (f).				
a)	a) All b) Some * c) None of:						
	 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 						
	Copies of the certified copies of the priority documents have been received in this National Stage						
	application from the International Bureau (PCT Rule 17.2(a)).						
* See the attached detailed Office action for a list of the certified copies not received.							
Attachmen	t(s)						
	e of References Cited (PTO-892)	4) Interview Sum					
	e of Draftsperson's Patent Drawing Review (PTO-948) nation Disclosure Statement(s) (PTO/SB/08)		ail Date mal Patent Application				
	r No(s)/Mail Date	6) Other:	• •				

Application/Control Number: 10/796,485 Page 2

Art Unit: 3627

DETAILED ACTION

1. Applicant's February 2, 2007 Amendment has been reviewed. Applicant cancelled claims 14-65, 79-130 and 144-195. The following is required pursuant to the Amendment.

Election/Restrictions

- 2. Restriction to one of the following inventions is required under 35 U.S.C. 121:
 - I. Claims 1-13, drawn to a system, classified in class 235, subclass 385.
 - II. Claims 66-78, drawn to a computer program product, classified in class703, subclass 6.
- III. Claims 131-143, drawn to a method, classified in class 715, subclass 700.

 The inventions are distinct, each from the other because of the following reasons:
- 3. Inventions Group III and Group I are related as process and apparatus for its practice. The inventions are distinct if it can be shown that either: (1) the process as claimed can be practiced by another and materially different apparatus or by hand, or (2) the apparatus as claimed can be used to practice another and materially different process. (MPEP § 806.05(e)). In this case the apparatus can be used simulate a computer gaming apparatus.
- 4. Inventions Group I and Group II are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination Group II has

Application/Control Number: 10/796,485

Art Unit: 3627

See MPEP § 806.05(d).

separate utility such as design analysis of structural components or modeling a dye.

Page 3

- 5. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.
- 6. Inventions Group II and Group III are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct if they do not overlap in scope and are not obvious variants, and if it is shown that at least one subcombination is separately usable. In the instant case, subcombination Group II has separate utility such as determining conflicting paths between vehicle systems. See MPEP § 806.05(d).
- 7. The examiner has required restriction between subcombinations usable together. Where applicant elects a subcombination and claims thereto are subsequently found allowable, any claim(s) depending from or otherwise requiring all the limitations of the

Application/Control Number: 10/796,485 Page 4

Art Unit: 3627

allowable subcombination will be examined for patentability in accordance with 37 CFR 1.104. See MPEP § 821.04(a). Applicant is advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application.

- 8. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art in view of their different classification, restriction for examination purposes as indicated is proper.
- 9. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions require a different field of search (see MPEP § 808.02), restriction for examination purposes as indicated is proper.
- 10. Because these inventions are independent or distinct for the reasons given above and there would be a serious burden on the examiner if restriction is not required because the inventions have acquired a separate status in the art due to their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

11. This application contains claims directed to the following patentably distinct species: Figures 1, 2, 3, 4, 5. The species are independent or distinct because Applicant discloses such, e.g. from page 19 of the present specification.

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, no claim is generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which depend from or otherwise require all the limitations of an allowable generic claim as provided by 37 CFR 1.141. If claims are added after the election, applicant must indicate which are readable upon the elected species.

MPEP § 809.02(a).

12. A telephone call was made to Mr. Henry B. Ward, III (Reg. No. 42,212) on April 16, 2007 to request an oral election to the above restriction requirement, but did not result in an election being made.

Art Unit: 3627

Applicant is advised that the reply to this requirement to be complete must include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103(a) of the other invention.

13. Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

14. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Joseph Rudy whose telephone number is 571-272-6789. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ryan M. Zeender can be reached on 571-272-6790. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andrew Joseph Rudy Primary Examiner

Art Unit 3627